STATE BOARD OF EQUALIZATION
STAFF LEGISLATIVE BILL ANALYSIS

Date Introduced:	**02/03/04**	Bill No:	**AB 1869**
Tax:	**Sales and Use**	Author:	**Maldonado**
Board Position:		Related Bills:	

BILL SUMMARY

This bill would extend the existing sales and use tax exemption for the sale or use of space flight property to include ground support facilities for space flight operations.

ANALYSIS

Current Law

Under existing law, a sales tax is imposed on retailers for the privilege of selling tangible personal property in this state. The use tax is imposed upon the storage, use, or other consumption of tangible personal property purchased in this state. Either the sales tax or the use tax applies with respect to all retail sales and purchases of tangible personal property, unless the sale and purchase is specifically exempted.

Under existing law, Revenue and Taxation Code Section 6380 provides a sales and use tax exemption for the sale or use of qualified property used in space flight. "Space flight" is defined under Section 6380 to mean any flight designed for suborbital, orbital, or interplanetary travel by a space vehicle, satellite, space facility, or space station of any kind. "Qualified property" consists of:

- Tangible personal property that has space flight capability, including, but not limited to, an orbital space facility, space propulsion system, space vehicle, satellite, or space station of any kind, and any component thereof.
- Tangible personal property to be placed or used aboard any facility, system vehicle, satellite, or station described above, regardless of whether that property is to be ultimately returned to this state for subsequent use, storage, or other consumption.
- Fuel of a quality that is not adaptable for use in ordinary motor vehicles, but is produced, sold, and used exclusively for space flight.

Proposed Law

This bill would amend Section 6380 of the Sales and Use Tax Law to add to the definition of qualified property any tangible personal property to be used for the purpose of assembly, launch, or transport of space flight property and tangible personal property used in spaceport operations.

This bill would define "spaceport operations" to mean an installation and related facilities, and equipment used for the launching, landing, recovering, and monitoring of vehicles capable of entering and returning from space flight.

This bill would provide a sales and use tax exemption for the sale and use of materials consumed or installed by a contractor in the construction of a facility designed to launch, manufacture, fabricate, assemble, or process qualified property.

The bill would become effective immediately, but would become operative on the first day of the calendar quarter commencing more than 90 days after the date the bill is enacted.

Background

Section 6380 was added to the Sales and Use Tax Law in the 1993 Legislative Session by SB 671 (Alquist, et al., Ch. 881). The exemption provided by Section 6380 was for the sale and use of space flight property originating at Vandenburg Air Force Base and contained a sunset provision of January 1, 2004. At that time, the bill was addressing Motorola Company's IRIDIUM™ project; a development of a global wireless communications network that would combine the worldwide reach of 66 low-earth-orbit satellites with land-based wireless systems to enable subscribers to communicate using handheld telephones and pagers virtually anywhere in the world. Vandenburg Air Force Base in Santa Barbara County was the only base equipped in the United States for launching these types of satellites, because of the required orbit. Since this exemption was created, deployment of its 72-satellite constellation, including in-orbit spares, has been completed (40 of those through a total of 8 launches from Vandenburg). Motorola completed the IRIDIUM™ project and introduced it to the world on November 1, 1998.

Section 6380 was amended during the 1998 Legislative Session by AB 2798 (Machado, et al., Ch. 323). This bill removed the requirement that the space flight property originate from Vandenburg Air Force Base and also removed the sunset date provision.

Several bills containing similar provisions have been introduced in prior legislative sessions. Senate Bill 1582 (O'Connell), introduced during the 2000 Legislative Session, contained the same provisions as this bill. SB 1582 failed to pass out of the Senate Revenue and Taxation Committee. Senate Bill 76 (O'Connell), Senate Bill 640 (Knight), and Assembly Bill 1575 (B. Campbell), all introduced during the 2001 Legislative Session, contained similar provisions as this bill. SB 76 and SB 640 both failed passage in the Senate Revenue and Taxation Committee. AB 1575 was never heard in committee.

COMMENTS

1. **Sponsor and Purpose.** This bill is co-sponsored by the Lockheed Martin Space Systems Company and the California Space Authority. This measure is intended to demonstrate California's intent to ensure that the commercial space industry in California grows and is not lost to competitive states or countries. Currently, FAA launch facilities exist not only in California, but also in Virginia, Florida, New Mexico and Alaska. In addition to launch sites available in the United States, launch sites are available in other countries as well. Many of the launch sites available outside California offer tax incentives for commercial launches.

2. **Property covered by proposed exemption.** The current exemption provided by Section 6380 covers only the property that has space flight capability, property to be placed or used aboard property that has space flight capability, or fuel used exclusively for space flight.

   This bill would expand the exemption to cover property to be used for assembly, launch, or transport of space flight property. This could include property such as tools, machinery and equipment, containers, and vehicles used to transport property.

Also included in the proposed exemption would be property used in spaceport operations. Spaceport operations is defined to mean an installation and related facilities, and equipment used for the launching, landing, recovering and monitoring of vehicles capable of entering and returning from space flight. Examples of property that could be included in spaceport operations would be launch pads, landing areas, ships, cranes, computer tracking equipment and related accessories.

The proposed exemption would also provide an exemption from the gross receipts for the sale of, or the storage use or other consumption in this state of, materials consumed or installed by a contractor in the construction of a facility designed to launch, manufacture, fabricate, assemble, or process qualified property.

Contracts to furnish and install items such as runways, launch pads, and buildings are construction contracts. Generally, the contractor is regarded as the consumer of materials and the retailer of fixtures under a construction contract. A contractor would normally pay tax on the purchase price of materials consumed on the job and report tax on the retail price of fixtures sold under the construction contract. This bill would allow contractors to avoid paying tax on the purchase of materials consumed and reporting tax on fixtures sold when a construction contract is performed for the purpose of building qualified property.

COST ESTIMATE

Some costs would be incurred in computer programming, return revisions and return processing. A detailed estimate of these costs is pending.

REVENUE ESTIMATE

Background, Methodology, and Assumptions

Under current law, qualified property used in space flight is exempted from taxes. Qualified property is defined as tangible personal property that has space flight capability, including, but not limited to, an orbital space facility, space propulsion system, space vehicle, satellite, or space station of any kind, and any component thereof. Qualified property is also defined as tangible personal property to be placed aboard any facility, system, vehicle, satellite, or station, regardless of whether that property is to be returned to this state for subsequent use, storage or other consumption. Also exempted is fuel of a quality that is not adaptable for use in ordinary motor vehicles, but is produced, sold, and used exclusively for space flight.

Under the provisions of this bill, tangible personal property used for the purpose of assembly, launch, or transport of an orbital space facility, space propulsion system, space vehicle, satellite, or space station of any kind would be exempt from the sales and use tax. Additionally, materials consumed or installed by a contractor in the construction of a facility designed to launch, manufacture, fabricate, assemble, test, or process qualified property are also exempt from the sales and use tax.

According to industry representatives, expenditures for launch related activities in California are estimated to be at least $20 million for 2004. However, they were unable to identify what proportion of those expenditures would qualify under this bill, and what proportion would be currently exempt. Historically, estimates on launch activities have been $115 million in 2000, $117 million in 2001, $46 million in 2002, $19 million in 2003, and an estimated $20 million for 2004. It appears that launch activities have been in decline over the past few years.

Revenue Summary

Assuming that all estimated expenditures will qualify under this bill, the revenue impact from exempting the estimated $20 million from the sales and use tax would be as follows:

Revenue Effect

	2004
State Loss (5.25%)	$1.1 million
Local Loss (2.00%)	$0.4 million
Transit Loss (0.67%)	$0.1 million
Total	$1.6 million

Analysis prepared by:	Bradley E. Miller	916-445-6662	3/18/04
Revenue estimate by:	Dave Hayes	916-445-0840	
Contact:	Margaret S. Shedd	916-322-2376	

ls 1869-1bm.doc

This staff analysis is provided to address various administrative, cost, revenue and policy issues; it is not to be construed to reflect or suggest the Board's formal position.